

**AMENDMENTS TO THE DRAWINGS**

The attached sheet of drawings includes changes to Figures 1 and 2.

**REMARKS**

In an Office Action mailed April 18, 2006, the Examiner objected to several typographical errors in the application and to the drawings. All typographical errors have been corrected and replacement Figures 1 and 2 are provided herewith.

The Examiner also rejected claims 4-8 and 11-12 as obvious over US Patent No. 6,377,009 to Philipp. The remaining claims were rejected over a combination of the Philipp patent and additional references.

By the present amendment, claims 6 and 11 have been amended and new claims 13 and 14 have been added.

**Claim 11**

Independent claim 11 stands rejected as obvious the Philipp patent. The Examiner indicates that Philipp provides all the elements of claim 11, except for the multitude of electrodes. Applicant agrees that Philipp fails to provide a multitude of electrodes, but disagrees with the Examiner's conclusion that it would be obvious to one of ordinary skill in the art to modify Philipp to use a multitude of "obstruction sensing plates" to improve sensitivity and that claim 11's provision of multiple electrodes is a mere duplication of the essential working parts.

In rejecting claims under 35 U.S.C. §103, the Examiner must provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art, or to combine references, to arrive at Applicant's claimed invention. There must be something *in the prior art* that suggests the proposed modification, other than the hindsight gained from knowledge that the inventor choose to combine these particular things in this particular way. Uniroyal Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988). The Examiner is also required to make specific findings on a suggestion to combine prior art references. In Re Dembiczak, 175 F.3d 994, 1000-01, 50 USPQ2d 1614, 1617-19 (Fed. Cir. 1999).

The Philipp patent does not suggest that one should provide a multitude of electrodes arranged on the support. Even if one were to modify the Philipp invention in the way suggested by the Examiner, this would merely provide a multitude of obstruction sensing plates, each with a single electrode, rather than a multitude of electrodes on a film-like support. As such, this is not a

mere duplication of parts, but is an inventive combination. As explained in the specification, the design of claim 11 allows a control system to distinguish between capacitive changes measured by all sensors and capacitive changes measured by only a selection of sensors. This does not merely meet the Examiner's stated goal of "improved sensitivity."

Claim 11 has been additionally amended to provide that the capacitive sensor can be deformed in all directions for installation. As explained in the specification, the flat film-like support with a multitude of electrodes arranged thereon allows this deformability for difficult installation situations. The Philipp patent does not suggest or mention deformability of a sensor in all directions for installation purposes. As such, this amendment to claim 11 provides additional reasons for allowance. For all the reasons provided above, Applicant respectfully submits that claim 11 is in condition for allowance. Claim 2, which depends therefrom, is also in condition for allowance. New claim 13 also depends from claim 11, and is allowable therewith. Claim 13 adds that the support is mounted to an element of the convertible top. This requirement compliments the deformability requirement of claim 11, since the use of the present invention in a convertible top system benefits from the present invention's ability to be used in difficult installation situations.

### Claim 12

Independent claim 12 stands rejected as obvious in view of the Philipp patent. As discussed above with respect to claim 11, the Philipp patent fails to provide for a multitude of electrodes arranged on a flat, film-like support, nor does it suggest or motivate such a modification to the Philipp design. Further, as indicated by the Examiner, Philipp fails to provide a plurality of sensors as part of the capacitive sensor system. Again, Philipp fails to suggest or motivate such a modification. As such, Applicant respectfully submits that the rejection of claim 12 should be withdrawn. Claims 4-10 depend from claim 12 and are in condition for allowance therewith. Applicant further submits that dependent claims 4-10 provide additional elements not disclosed or suggested by the cited art. For example, claim 4 provides that an obstruction situation is detected when a selection of several sensors are responding. The Examiner indicates that Philipp discloses such an arrangement, but Applicant respectfully disagrees. The Examiner has not indicated where in the Philipp disclosure such an arrangement is suggested or taught, and Applicant finds no such teaching.

**Claim 14**

New independent claim 14 is similar to claim 12, but further provides that a control indicates a change in ambient conditions when all of the plurality of sensors measure a capacitance change and the control indicates an obstruction when a selection of the plurality of sensors measure a capacitance change. A system according to the present invention can distinguish between changes in ambient conditions and an obstruction using the multitude of electrodes and the plurality of sensors. Such a structure and benefit does not appear to be provided by the prior art. As such, Applicant respectfully submits that independent claim 14 is in condition for allowance.

Any questions should be directed to Applicant's below signed representative at the telephone/facsimile numbers provided below.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Dated: July 18, 2006

Respectfully submitted,

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